



**THE ATTORNEY GENERAL
OF TEXAS**

**JIM MATTON
ATTORNEY GENERAL**

June 7, 1989

Honorable Morris Samford, Jr.
Panola County Attorney
Panola County Courthouse Annex
Carthage, Texas 75633

LO-89-46

Dear Mr. Samford:

You ask whether the City Commission of Carthage may reduce the amount of funding to the police department for maintenance and repair of vehicles as the result of the forfeiture of three automobiles to the city by the district court under section 5.08 of article 4476-15, V.T.C.S.

You advise that three forfeited vehicles are presently being used by the police department. There has not been an increase in the number of vehicles used since the forfeited vehicles replaced ones that had previously been used by the department.

You provide the following additional information relevant to your question:

In the budget year 1987, the City Commission of Carthage, Texas had designated \$7,300.00 for maintenance and repairs of police department vehicles. For the Budget year 1988, the City Commission decreased funding to this department in the amount of \$2,800.00 for maintenance and repairs for these three (3) vehicles. The basis for this reduction is that money that had been or will be forfeited to the City of Carthage, Texas after 1986, under Article 4476-15, V.A.C.S., should be used for the routine maintenance and repairs of these same three (3) vehicles. (This money involves both cash and proceeds received from the sale of forfeited vehicles.)

Honorable Morris Samford, Jr.

June 7, 1989

Page 2

Sections 5.03 through 5.081 of article 4476-15, V.T.C.S., provide for the forfeiture of property used in connection with violations of the Texas Controlled Substances Act. Section 5.07(a) of article 4476-15 states that the court may forfeit the property "to the state or an agency of the state or to a political subdivision of the state authorized by law to employ peace officers."

Section 5.08(f) of article 4476-15 provides that

Except as otherwise provided by this subsection, expenditures from this fund shall be used solely for the investigation of any alleged violations of the criminal laws of this state.

. . . .

Nothing in this subsection shall be construed to decrease the total salaries, expenses, and allowances which an agency or office is receiving from other sources at or from the time this subsection takes effect.

In Attorney General Opinion JM-678 (1987) the matter of whether the funds described in section 5.08(f) may be tapped to reimburse the general funds of a political subdivision which have been used to pay for salaries, expenses, and allowances of the law enforcement agency was addressed. In Attorney General Opinion JM-678 it was stated:

This language [section 5.08(f)] expressly forbids the use of special funds to reimburse a political subdivision for the salaries, expenses, and allowances it provided the law enforcement agency as of and after the 1981 effective date of section 5.08(f). Moreover, the purpose of section 5.08(f) is to increase funding available for investigating violations of the criminal laws. The use of the special fund to reimburse the general fund for past expenditures on law enforcement would be contrary to this objective.

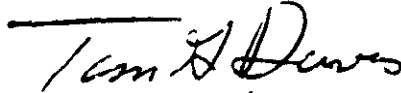
Honorable Morris Samford, Jr.

June 7, 1989

Page 3

The City Commission of Carthage may not reduce its funding to the police department for maintenance and repair of vehicles as the result of forfeitures under section 5.08 of article 4476-15, V.T.C.S.

Yours very truly,



Tom G. Davis
Assistant Attorney General
Opinion Committee

APPROVED: Sarah Woelk

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